

MEMORANDUM



DATE: November 7, 2011
TO: Interested Parties
FROM: William E. Hamilton
RE: State Support for Aeronautics Programs

Background

The State of Michigan has long provided support for Michigan aviation through regulatory oversight of airports, pilots, and flight schools, and through grant programs to Michigan airports. State authority over aeronautics programs is established in the State Aeronautics Code.

The State Aeronautics Code, 1945 PA 327, established the State Aeronautics Commission and gave the commission general supervisory authority over aeronautics within the state. The commission was charged to "*encourage, foster, and participate with and provide grants to the political subdivisions of this state in the development of aeronautics within this state.*" The commission was given authority to "*establish and encourage the establishment of airports, landing fields, and other aeronautical facilities*" and to "*promulgate rules that it considers necessary and advisable for the public safety governing the designing, laying out, location, building, equipping, and operation of airports and landing fields...*"

Activities in support of state aeronautics programs are carried out by the Office of Aeronautics within the Michigan Department of Transportation.

The State Aeronautics Code established the state aviation fuel taxes, and aircraft registration taxes used to support state aeronautics programs. The State Aeronautics Fund (SAF), created in Sec. 34 of the State Aeronautics Code, is the receiving and distribution fund for aeronautics-related tax revenue.

Funding for state aeronautics programs is provided in the state Transportation budget. A total of \$121.8 million was appropriated for aeronautics programs in the FY 2011-12 budget, of which \$94.1 million came from Federal Aviation Administration (FAA) grant programs, \$13.1 million from local sources (for matching federal funds), and \$14.5 million from the SAF.

Airport Improvement Program

The Airport Improvement Program (AIP) is the largest aeronautics program in the state transportation budget; the FY 2011-12 budget appropriates \$109.7 million for AIP grants. In addition, much of the work of the Office of Aeronautics involves administrative support and program management for the AIP. Even though the program is funded primarily with federal funds, without the state appropriation there would be no authority for the state to expend program funds.

The AIP is a federal program of capital assistance to eligible state airports. The Catalog of Federal Domestic Assistance (CFDA) indicates that "*The objective of the Airport Improvement Program is to assist sponsors, owners, or operators, of public-use airports in the development of a nationwide system of airports adequate to meet the needs of civil aeronautics.*"

According to the 2008 Michigan Airport System Plan, there are 235 Public Use Airports in the state, of which 129 are publicly owned. Of these 129 publicly owned airports 95 are on the National Plan of Integrated Airport Systems (NPAS), and thus eligible for federal aid under the Airport Improvement Program. Most of the public systems (NPAS), and thus eligible for federal aid under the Airport Improvement Program. Most of the public owned airports are owned by a local unit of government (county, city, or airport authority). Four airports, the Romeo Airport in Macomb County, the Canton-Plymouth-Mettetal Airport in Western Wayne County, the Airport in Genesee County, and the Houghton Lake State Airport in Roscommon County are owned by the Linden Michigan Department of Transportation.

For additional information on ARRA grants, see House Fiscal Agency Analysis of House Bill 4308 of the 2009 Legislature Session, and Senate Bill 138 of the 2011 Legislative Session.

Airport Improvement Program — In December 2003, President Bush signed into law Section 100 of Flight Authorization Act of 2003 (Public Law 108-176) which reauthorized federal aeronautics programs, including the AIP, through September 30, 2007. Authority for the federal aerospace extension of the AIP was signed into law on September 30, 2007; Congress has not yet passed a long-term reauthorization. On September 16, 2011, President Obama signed into law a short-term extension of the federal aviation programs through January 31, 2012. It was the 22nd short-term extension since September 2007.

Issues Affecting the ALP and State Aeronautics Programs

In addition to the federal, state, and local funds used to support the AIP Capital program, the state has used restricted revenue bonds to finance some aerospace capital projects. Between June 2003 and June 2006 the Michigan Department of Transportation sold a total of \$60.0 million in bonds dedicated for aeronautics capital programs. The bonds were appropriated over a five-year period, \$12.0 million per year from FY 2002-03 through FY 2006-07. This Aeronautics bond program was designated as "ASAP".

Over the last 10 fiscal years, baseline appropriations for the AIP program in the state transportation budget have averaged \$163.2 million, of which an average of \$131.4 million came from federal funds. In addition to the baseline appropriations, \$33.8 million in federal AIP funds were provided to Michigan under the American Recovery and Reinvestment Act of 2009 (ARRA) — \$30.4 million in FY 2008-09, and \$3.4 million in FY 2010-11 from a September 2010 redistribution of ARRA funds. These ARRA projects were 100% federally funded; no local match was required.

The AIP is effectively a pass-through program; federal funds are available to the state of Michigan for eligible projects. After a review and approval process, grants are awarded by the State Aerospace Commission for eligible projects at locally-owned airports.¹ Under the current federal program, federal funds participate in 95% of eligible project costs, with the 5% non-federal share split between the state, using SAF revenue, and the local owner. In effect, the state and the local airport owner each participate in 2.5% of eligible project cost.

Michigan is one of ten authorized "block grant" states, a designation that allows the state to assume responsibility for administering ALP grants at airports classified as "other than primary" airports, i.e., non-primary commercial service, general aviation airports. In non-block grant states, the FAA has direct administrative control of the ALP program.

Accordingly to Congressional Research Service Issue Brief IB10026: "The Airport Improvement Program (AIP) has provided federal grants for airport development and planning since the passage of the Airport and Airway Improvement Act of 1982 (P.L. 97-248). AIP funding is usually spent on projects that support airport operations including runways, taxiways, aprons, noise abatement, land purchase, and safety, emergency or snow removal equipment. Funds obligated for the AIP are drawn from the Airport and Airway Trust Fund, which is supported by user fees and fuel taxes."

State Aeronautics Fund (SAF) – The SAF is a state-restricted fund established in Sec. 34 of the State Aeronautics Code. Historically, the principal revenue sources for the SAF have been specific taxes on aviation fuel, and, to a much lesser extent, aircraft registration taxes. These two revenue sources are constitutionally restricted for transportation (Article IX, Section 9 of the 1963 Constitution) and are restricted for aeronautics purposes by Sec. 35 of the State Aeronautics Code. The fund also receives revenue from certain airport, pilot, and aviation school licensing fees, and from rental charges for use of the state airplanes.

Sec. 203 of the State Aeronautics Code establishes a tax rate of 3 cents per gallon of aviation fuel – a rate unchanged since first instituted in 1931. Although the stated tax rate is 3 cents per gallon, Sec. 203 also provides for a credit of 1 and one-half cents per gallon for interstate airline operators on scheduled operations.

Revenue generated by the aviation fuel tax peaked at \$8.4 million in FY 1998-99 and has trended downward in recent years. Aviation fuel tax revenue for both FY 2010-11 and FY 2011-12 is estimated to be \$5.5 million.

The aircraft registration tax established in Sec. 11 of the State Aeronautics Code is a weight-based tax – 1-cent per pound of either maximum gross weight or maximum takeoff weight, whichever is greater. This tax rate is unchanged since 1988. The tax is expected to generate \$280,000 in FY 2011-12, an average of \$40 per aircraft based on approximately 7,000 aircraft registrations.

The SAF also receives \$6.0 million each year from an earmark of Airport Parking Tax revenue. The Airport Parking Tax Act (1987 PA 248) provides for a tax on parking facility transactions at Detroit Wayne County Metro Airport and within five miles of that airport. Public Act 680 of 2002 amended the Airport Parking Tax Act to establish the \$6.0 million annual SAF earmark, beginning with the 2002-03 fiscal year.

Use of Airport Parking Tax revenue within the SAF is restricted to repayment of ASAP bonds, to matching federal AIP funding, and to certain safety and security capital projects which were either not eligible for federal aid or for which federal aid was not available.

Public Act 680 of 2002 established a sunset for the tax; it repealed the Airport Parking Tax Act, and thus authority to impose the tax, effective December 31, 2007, or when all airport safety and security bonds authorized under the act were retired, whichever date is later.

The Michigan Department of Transportation has issued the \$60.0 million in airport safety and security bonds ("ASAP" bonds) under the authority of Public Act 680 – \$24.0 million in June 2003, and \$36.0 million in June 2006. Current bond schedules provide for the bonds to be retired in 2031.

Attachments (click on link to view attachments)

[FY 2011-12 Aeronautics Approps.pdf](#)

[SAF AppropsandRev Hist.pdf](#)

[SAF Aviation Fuel Tax Rev.pdf](#)

[MI Aeronautics Capital Outlay Approps.pdf](#)

STATE AERONAUTICS FUND
APPROPRIATION & REVENUE HISTORY
FY 1997-98 through 2013-14

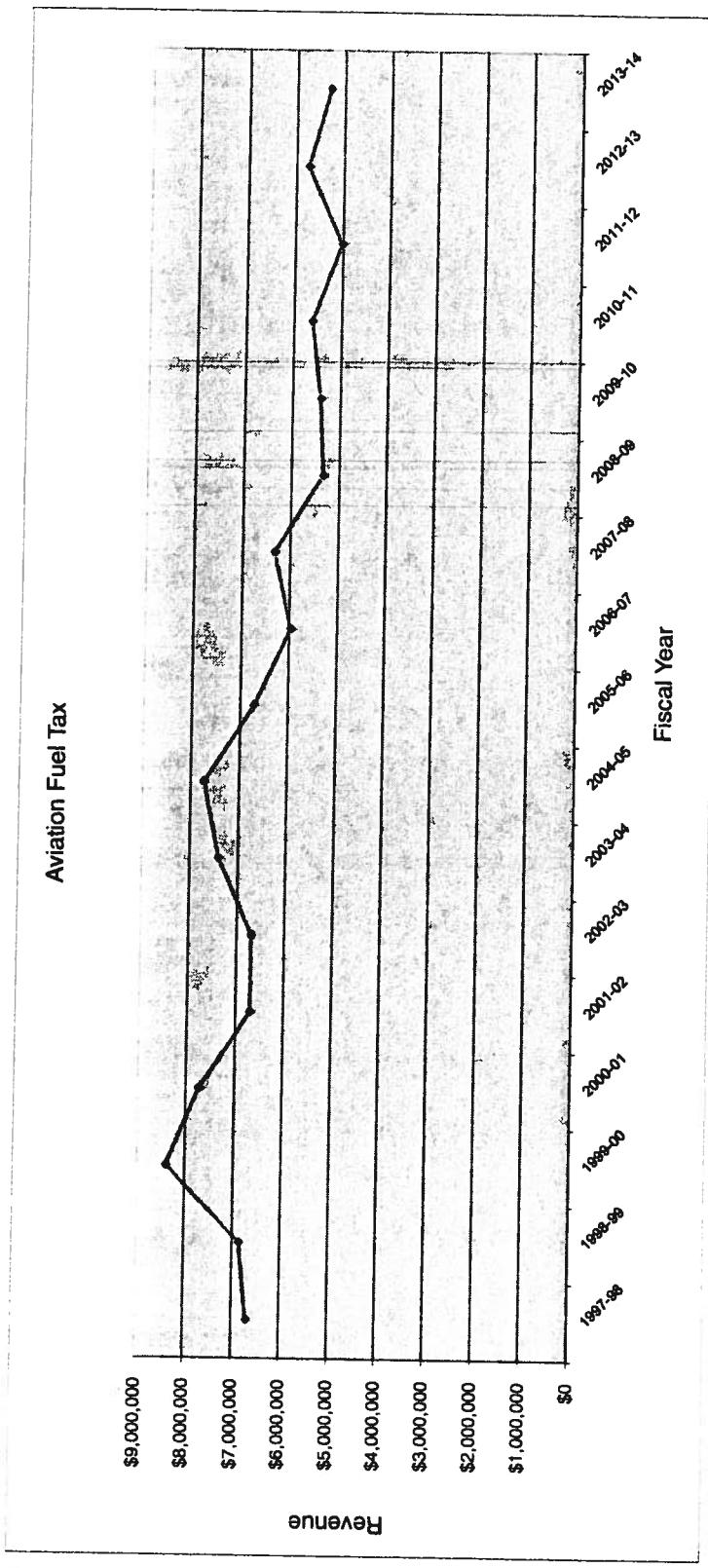
	Fiscal Year	1997-98	1998-99	1999-2000	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	
Revenue - Aeronautics Taxes and Fees																		<i>estimate</i>	
Aviation Fuel	\$ 6,867,759	\$ 8,389,628	\$ 7,732,150	\$ 6,705,528	\$ 6,698,836	\$ 7,401,938	\$ 7,721,014	\$ 6,718,713	\$ 5,974,483	\$ 6,334,663	\$ 5,691,549	\$ 5,421,677	\$ 5,621,413	\$ 5,026,508	\$ 5,750,000	\$ 5,300,000			
Aircraft registrations	74,784	243,054	288,686	304,533	281,044	302,406	287,985	296,514	303,968	280,039	283,338	277,025	278,478	269,240	274,000	814,000			
State-owned plane rental	423,774	542,785	614,781	585,666	683,474	394,986	289,353	281,383	301,942	311,365	379,101	445,187	458,029	498,899	380,000	450,000			
Interest/Facility Rental/Other	1,663,797	1,361,446	2,991,304	994,654	831,598	777,172	641,628	1,111,758	1,282,361	4,182,624	1,074,099	311,530	167,051	191,061	164,024	288,000			
Subtotal SAF Revenue	\$ 60,030,114	\$ 10,536,973	\$ 11,026,821	\$ 8,590,381	\$ 8,488,347	\$ 8,855,140	\$ 8,954,401	\$ 8,399,829	\$ 7,859,084	\$ 11,103,187	\$ 7,019,666	\$ 6,668,318	\$ 6,310,940	\$ 5,956,571	\$ 6,703,000	\$ 6,861,000			
Airport Parking Tax																			
Total SAF Revenue	\$ 60,030,114	\$ 10,536,913	\$ 11,026,821	\$ 8,590,381	\$ 8,488,347	\$ 8,855,140	\$ 8,954,401	\$ 8,399,829	\$ 7,859,084	\$ 11,103,187	\$ 7,019,666	\$ 6,668,318	\$ 6,310,940	\$ 5,956,571	\$ 6,703,000	\$ 6,861,000			
Redirection from State General Fund																			
Appropriations																			
Airport Improvement/Aviation Serv	7,570,000	7,546,500	6,897,100	6,773,200	5,973,200	5,530,600	5,918,900	7,150,800	7,486,500	6,983,500	7,110,500	7,140,900	7,203,100	7,520,600	7,215,800	7,568,500	7,354,700		
Air Service Program	1,000,000	1,500,000	1,000,000	1,000,000	300,000	600,000	1,000,000	1,000,000	700,000	700,000	700,000	464,600	464,600	100,000	700,000	301,200			
DGs, Administration, Planning	1,224,400	1,320,500	1,158,900	1,270,200	1,373,300	1,277,200	1,258,100	1,253,200	958,900	1,633,100	1,419,900	1,155,500	1,201,300	1,238,200	1,221,900	1,267,400	1,273,000		
Debt Service																			
Subtotal - Transportation	\$ 9,794,400	\$ 10,369,000	\$ 9,056,000	\$ 9,043,400	\$ 8,346,500	\$ 7,107,800	\$ 6,346,500	\$ 6,276,600	\$ 6,272,600	\$ 4,689,300	\$ 5,607,400	\$ 3,474,600	3,430,900	3,472,400	3,456,000	3,473,500	3,892,600	3,992,200	
Capital Outlay (SAF Only)	4,000,000	4,000,000	4,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	6,100,000	7,000,000	7,256,200	\$ 14,534,000	\$ 12,705,000	\$ 12,427,300	\$ 12,334,400	\$ 12,679,400	\$ 12,011,200	\$ 13,428,500	\$ 12,821,100
Total SAF Appropriation	\$ 13,794,400	\$ 14,369,000	\$ 13,056,000	\$ 11,043,400	\$ 10,346,500	\$ 14,107,800	\$ 15,663,600	\$ 19,332,800	\$ 14,849,100	\$ 19,488,600	\$ 17,819,300	\$ 16,220,200	\$ 14,886,000	\$ 16,551,900	\$ 14,537,700	\$ 27,833,400	\$ 23,41,300		

Notes:

Revenue data from Michigan Department of Transportation budget development documents and MAIN revenue reports; FY 2012-13 and FY 2013-14 based on Michigan Department of Treasury estimates.
 FY 2012-13 includes \$10.0 million redirected from the state General Fund through amendment of the Sales Tax Act (2012 PA 226).
 Appropriations through FY 2012-13 based on enacted appropriations and do not reflect actual expenditures which would be less than the appropriated amounts.
 Appropriation amounts for FY 2013-14 reflect the Governor's budget recommendations

STATE AERONAUTICS FUND
Aviation Fuel Tax Revenue
FY 1997-98 through FY 2013-14

Fiscal Year	<u>1997-98</u>	<u>1998-99</u>	<u>1999-2000</u>	<u>2000-01</u>	<u>2001-02</u>	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07</u>	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>
6,696,560	6,867,759	8,389,628	7,732,150	6,705,528	6,701,938	7,401,938	7,721,014	6,718,713	5,974,483	6,334,663	5,344,254	5,421,677	5,621,413	5,026,598	5,750,000	5,300,000	





MEMORANDUM



DATE: February 22, 2013
TO: Interested Parties
FROM: William E. Hamilton
RE: Use of Toll Roads in Michigan

Summary: Most of the roads and streets in Michigan that carry any significant volume of traffic were constructed or reconstructed, at least in part, with federal aid. As a result, federal law governs the conversion of existing free roads and streets to tollways.

Federal law allows for the conversion of some federal-aid highways, other than Interstate highways, to tollways under fairly limited situations and with various restrictions. Federal law requires that the state enter into a toll facility agreement with the Federal Highway Administration (FHWA) and that toll revenue be dedicated to debt service, return on private investment, and operation and maintenance of the facility. Any excess funds would have to be dedicated to eligible transportation programs (under Section 23 of the U.S. Code) and could not be used to support other state programs – such as General Fund or School Aid programs.

Federal regulations are much more restrictive with regard to Interstate highways. Federal law currently provides for only a limited number pilot conversion projects on existing Interstate highways. It is our understanding that except as provided in federal law, the conversion of a facility constructed with federal funds to a tolled facility would require the repayment of the federal funds used to construct the facility.

In addition to federal restrictions, conversion of free highways to tollways is limited by the ability to control access to the roadway. Toll facilities are generally limited-access highways or bridges where access to the facility can be readily restricted to those paying the toll. Traffic volume would have to be sufficient, and access to free alternatives limited, to justify the cost of establishing tolling operations, whether manual toll booths or electronic recorders.

The Michigan Department of Transportation has explored tolling for a limited number of new-capacity projects.

Detailed Explanation: Historically, federal funds have not participated in the construction of toll roads, and federal-aid highways, including the Interstate highway system, are generally toll-free. There are some toll facilities on the Interstate system. These tolled facilities were built before 1956, the year when federal funding for highway construction significantly increased. There are approximately 2,900 miles of tolled facilities on the 46,730 mile Interstate system.

In 1991, federal law was changed to allow greater flexibility with regard to tolling federal-aid highways:

Federal-aid highways (other than Interstate Highways) – Federal law (23 USC Section 129) allows federal participation in the construction of new toll facilities, or the reconstruction and conversion of free federal aid highways to tollways. These provisions apply only to federal-aid eligible highways not on the Interstate system. If federal funds are used to construct a new toll facility, or if a facility constructed with federal funds is converted to a toll facility, the state must execute a toll facility

Partnerships: <http://www.house.mi.gov/fia/PDFs/NCSL%20PPs%20Sep13%20Web.pdf>
 For additional information on PPPs, see House Fiscal Agency publication on Public Private

House Bill 4961 (Gonzales), passed the House in May 2010, but was not taken up in the Senate. The department does not currently have statutory authority to establish toll facilities. A bill to allow the department to do so through PPPs was offered in the 2009-2010 Legislative Session. The bill expanded use of tolling through PPPs to establish toll facilities. However, the department does not currently have capacity improvement projects; however, the through Public Private Partnerships (PPPs) for certain capacity improvement projects. A bill to allow the Tolling Opportunities – The Michigan Department of Transportation has explored the use of tolling

comparable facility in Michigan is the Mackinac Bridge. In both those instances, the toll facility had been built without the use of federal funds. The facilities were originally built bond proceeds with the pledge of toll revenue for debt service. The only

year lease of the 167 mile Indiana Tollway. The contract included a concession fee payment to the state of \$3.85 billion. A 2006 contract between the state of Indiana and a private investment group involved a 75-year lease. A 2004 agreement in exchange for the right to all toll and concession revenue over the life of the facility in exchange for the right to all operating and maintenance costs of the facility to the city of \$1.83 billion. The SCC took responsibility for all operations and maintenance to the city of \$1.83 billion. The SCC made an upfront concession involving a 99-year lease of the 7.8 mile Chicago Skyway. The SCC made an upfront concession October 2004 to private concessionaires in return for concession fee payments. The first was the public toll facilities to private concessionaires in return for concession fee payments. The long-term lease of

Note on the "Sale" of Toll Roads – Two widely publicized contracts involved the long-term lease of HOV lanes to manage congestion and benefit air quality, energy use, and efficiency. A toll facility agreement is required.

High Occupancy Vehicle (HOV) Lanes – SAFETEA-LU also permits use of variable pricing on tolled highways. This program was limited to three projects nationwide. Only one of three slots in this pilot program has been filled: a project in South Carolina in 2007. States to collect tolls on an interstate highway, bridge, or tunnel for the purpose of constructing new interstate highways. This program was limited to three projects nationwide. Only one of three slots in System Construction Toll Pilot Program, Section 1604(c), which permitted a State or compact of three separate states, for the purpose of reconstructing or rehabilitating interstate highway corridors that could not be adequately maintained or improved throughout the collection of tolls. Only two of the three available pilot project slots have been filled: one in Virginia in 2003, and one in Missouri in 2005. The Federal Highway Administration did not approve an application from Pennsylvania in 2007.

Interstate Highways – In 1998, the reauthorization of the federal aid highway program, "TEA-21," provided for a tolling pilot program. The interstate System Reconstruction and Rehabilitation Toll Pilot Program, Section 1216(b) of TEA-21, was established to allow up to three interstate tolling projects, in three separate states, for the purpose of reconstructing or rehabilitating interstate highway corridors that could not be adequately maintained or improved throughout the collection of tolls. Only two of the three available pilot project slots have been filled: one in Virginia in 2003, and one in Missouri in 2005. The Federal Highway Administration did not approve an application from Pennsylvania in 2007.

There are two toll facilities in Michigan with toll facility agreements, the Mackinac Bridge, and the Blue Water Bridge.

Private Investment, Operation and Maintenance. Excess funds may be used for eligible transportation purposes. The agreement requires that toll revenue be used for debt service, reasonable return on